

House Bill 30

By: Representative Jacobs of the 80th

A BILL TO BE ENTITLED
AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for preclearance of new townships under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for a short title; to provide for the requirements for the creation and funding of such townships; to provide for township councils for such townships; to provide for powers, duties, and functions of such township councils; to provide for officers, meetings, elections, and filling of vacancies for such township councils; to provide for certain immunities; to provide for the enactment of ordinances; to prohibit certain conflicts of interest; to provide for an audit; to provide for a transition of services; to provide that counties and municipalities shall continue to provide services in the township that are not specifically delegated by law to the township; to provide for the amendment and alteration of township boundaries; to provide for conformity; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising Code Section 36-31-6, relating to responsibility of the Attorney General for preclearances, as follows:

"36-31-6.

When a new municipal corporation or township is created by local Act, the Attorney General shall be responsible for seeking any and all preclearances required in connection with such Act and incorporation under the federal Voting Rights Act of 1965, as amended, until such time as the new municipal corporation or township notifies the Attorney General that it has the ability to seek any further preclearances required."

SECTION 2.

Said title is further amended by adding a new Chapter 94 to read as follows:

"CHAPTER 9436-94-1.

(a) This chapter shall be known and may be cited as the 'Georgia Townships Act.'

(b) The General Assembly shall be authorized by local law to provide for the creation of townships in the unincorporated areas of counties in this state in accordance with the provisions of this chapter.

(c) Prior to introducing a bill to create a township by local Act of the General Assembly, a feasibility study shall be conducted on the projected annual revenues and expenses of the proposed township. Such study must demonstrate that there is a substantial likelihood that the projected annual revenues of the proposed township will exceed the projected annual expenses of such township. The notice of intent to introduce local legislation required by Code Section 28-1-14 for such proposed township shall include a statement that a feasibility study has been conducted and shall notify the citizens of the location where a copy of such study is available for review.

(d) The General Assembly shall not create authorities in connection with townships nor shall any authority be created by a township.

36-94-2.

(a) A local Act creating a township shall contain the following:

(1) The name by which the township shall be known which shall be in the form of 'Township of _____' and shall not use any name that is currently the name of an active, incorporated municipality or county in the State of Georgia;

(2) A description of the area to be included in the township which shall be composed of a single, contiguous geographical area wholly within one county containing at least 2,000 acres and a minimum of 500 parcels of property that qualify for homestead exemption, and in which at least 10 percent of the total geographical area is used or is zoned for purposes other than residential uses; provided, however, that no township shall include within its boundaries more than one-third of the then existing unincorporated land area of the county within which it is located unless one-fifth or less of the then existing land area of the county remains unincorporated, in which case a township established pursuant to this chapter may include the entire remaining unincorporated area of the county;

(3) The number of members of the township council of the township;

(4) Whether members of the township council shall be elected at large or by district and, if such members are to be elected by district, a description of the district boundaries;

59 (5) The initial terms of office for members of the township council and the date for the
60 initial election of members of the township council in accordance with the provisions of
61 Code Section 21-2-540;

62 (6) Whether elections for the township council shall be by majority or plurality vote;

63 (7) The manner of filling vacancies on the township council;

64 (8) The amount and nature of compensation, if any, of the members of the township
65 council; and

66 (9) The number of members of the township council who must be present to constitute
67 a quorum for the transaction of business by the township council and the number of
68 affirmative votes necessary for the township council to take official action.

69 (b) Any local Act creating a township shall be subject to approval by the electors of the
70 area to be incorporated into a township in a referendum. Such referendum shall be
71 conducted in conjunction with a presidential preference primary, a state-wide general
72 primary, or a state-wide general election or on the Tuesday following the first Monday in
73 November in odd-numbered years. The election superintendent of the county in which the
74 township is to be located shall call and conduct a special election for the purpose of
75 submitting the local Act to the electors of area to be incorporated as a township for
76 approval or rejection. The election superintendent shall issue the call and conduct that
77 election as provided by general law. The election superintendent shall cause the date and
78 purpose of the election to be published once a week for two weeks immediately preceding
79 the date thereof in the official organ of the county in which the proposed township would
80 be located. The ballot shall have written or printed thereon express language concerning
81 whether the local Act creating the township shall be approved and language setting forth
82 the taxing mechanism and rate of taxation of the proposed township and its powers. All
83 persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
84 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
85 such question are for the approval of the Act, the Act shall become of full force and effect
86 on the first day of the second full month immediately following such election. If the Act
87 is not approved or if the election is not conducted as provided in this Code section, the Act
88 shall not become effective and such local Act shall be automatically repealed on the first
89 day of January immediately following that election date. The expense of such election
90 shall be borne by the county. It shall be the duty of the election superintendent conducting
91 the referendum to certify the results thereof to the Secretary of State.

92 36-94-3.

93 (a) The activities of a township created pursuant to this chapter shall be governed by a
94 township council. Persons elected to the township council shall be at least 18 years of age,

residents of the township for a period of at least one year immediately prior to their election, and qualified electors of the township. No person who holds any other elected public office shall be eligible for election or to serve as a member of a township council.

(b) A township shall exercise only those powers expressly provided in this chapter. A township shall not have nor exercise the power of eminent domain. A township shall not be a participant in service delivery agreements and shall not share in the distribution of local sales and use taxes authorized by Chapter 8 of Title 48.

(c) The township council may have some or all of the following authority, powers, and duties related to exercising or necessary to exercising the power of zoning and the regulation of land use and development within the boundaries of the township, which authority, powers, and duties shall be specified in the local Act creating the township:

(1) To provide comprehensive township planning for development by zoning and to provide subdivision regulation and the like as the township council deems necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community in accordance with a properly adopted zoning and land use ordinance and in accordance with the provisions of Chapters 66, 67, and 67A of this title in the same manner as counties and municipalities of this state presently or hereafter exercise such power;

(2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and duties of the township as provided in this chapter;

(3) To establish a budget and make appropriations for the support of the township, to authorize the expenditure of money for any purposes authorized by this chapter, and to provide for the payment of expenses of the township;

(4) To provide for the appointment, qualification, and selection of officers of the township council in addition to the chairperson and vice chairperson and provide for the duties of such officers;

(5) To adopt, amend, and abolish bylaws and internal operating procedures that are not in conflict with the provisions of this chapter for the governance of the township council in carrying out its authority, powers, duties, and functions;

(6) To employ and establish the compensation of persons to provide administrative, managerial, legal, accounting, financial, and other such services related to the carrying out of the authority, powers, duties, and functions of the township council as the township council deems appropriate;

(7) To review the performance of, promote, discipline, and terminate the employment of any employee of the township;

(8) To establish and provide health insurance, retirement, and other employment benefits for employees of the township;

131 (9) To create, alter, or abolish departments, offices, and agencies of the township and to
132 confer upon such agencies the necessary and appropriate authority for carrying out all the
133 powers conferred upon or delegated to the same;

134 (10) To regulate the erection and construction of buildings and all other structures not
135 inconsistent with general law; to adopt and enforce building, housing, plumbing,
136 electrical, gas, and heating and air-conditioning codes and such other codes as allowed
137 by general law; and to regulate all housing and building trades except as otherwise
138 prohibited by general law;

139 (11) To establish, amend, repeal, and collect fees for the services of the township from
140 the users of such services, including, but not expressly limited to, fees for filing rezoning
141 and land use applications, issuing building permits, and other licenses;

142 (12) To enter into contracts and agreements with other governments and entities and with
143 private persons, firms, and corporations, including contracts for the privatization of its
144 services and functions, contracts for security services, and contracts for the creation,
145 maintenance, and updating of the Internet website required by Code Section 36-94-12;

146 (13) To accept or refuse gifts, donations, bequests, or grants from any source for any
147 purpose related to the powers and duties of the township or of its citizens on such terms
148 and conditions as the donor or grantor may impose;

149 (14) To appropriate and borrow money for the payment of debts of the township on such
150 terms as the township council deems appropriate; provided, however, that the township
151 shall not have the power to issue bonds or incur bonded indebtedness;

152 (15) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
153 property, in fee simple or lesser interest, inside the limits of the township;

154 (16) To provide for the preservation and protection of property and equipment of the
155 township and the administration and use of same by the public;

156 (17) To purchase policies of workers' compensation and liability insurance in such
157 amounts and under such terms as the township council deems appropriate; and

158 (18) To provide for keeping a journal of its proceedings which shall be a public record.

159 (d) The township council shall hold regular meetings at such times and places as
160 prescribed by ordinance. Special meetings of the township council may be held on the call
161 of the chairperson or a majority of the members of the township council. Notice of such
162 special meeting shall be served on all other members personally, or by telephone
163 personally, at least 48 hours in advance of the meeting. Such notice to members of the
164 township council shall not be required if all members are present when the special meeting
165 is called. Such notice of any special meeting may be waived by a member in writing
166 before or after such a meeting, and attendance at the meeting shall also constitute a waiver

of notice on any business transacted in such member's presence. Only the business stated in the call may be transacted at the special meeting.

(e) Townships shall be subject to the provisions of Chapter 14 of Title 50, relating to open meetings, and Article 4 of Chapter 18 of Title 50, relating to open records. All meetings of the township council and all documents in the custody of the township shall be public and available, respectively, to the extent required by Chapter 14 of Title 50, Article 4 of Chapter 18 of Title 50, and other applicable law, and notice to the public of special meetings shall be given as required by law.

36-94-4.

A township and its township council and employees shall be entitled to the same privileges and immunities under law as municipalities and their governing authorities and employees.

36-94-5.

(a) At any township election, all persons who are qualified under the Constitution and laws of Georgia to vote for members of the General Assembly of Georgia and who are bona fide residents of that township shall be eligible to qualify as voters in the election.

(b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21, the 'Georgia Election Code,' and shall be conducted on a nonpartisan basis.

(c) Township general elections shall be held on the Tuesday after the first Monday in November in odd-numbered years.

(d) Members of the township council of a township elected in a general election shall take office on the first day of January following the date of their election.

(e) Except for the initial terms of office in a newly created township, each member of the township council shall serve a four-year term of office. The initial terms of members of the township council for a newly created township shall be as specified in the local Act creating the township.

36-94-6.

(a) No elected official, appointed officer, or employee of the township shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of official duties

or would tend to impair the independence of his or her judgment or action in the performance of official duties;

(3) Disclose confidential information concerning the property, government, or affairs of the township without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the township; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against the township or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.

(b) Any elected official, appointed officer, or employee of the township who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the township shall disclose such private interest to the township council. Any member of the township council who has a private interest in any matter pending before the township council shall disclose such private interest and such disclosure shall be entered on the records of the township council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of the township who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within the township council shall disclose such private interest to the township council.

(c) No elected official, appointed officer, or employee of the township shall use property owned by the township for personal benefit, convenience, or profit, except in accordance with policies promulgated by the township council.

(d) Any violation of this Code section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the township council.

(e) Except as authorized by law and specifically including subsection (a) of Code Section 36-94-3, no member of the township council shall hold any other elective public office or other township employment during the term for which elected.

36-94-7.

There shall be an annual independent audit of all township accounts, funds, and financial transactions by a certified public accountant selected by the township council. The audit

shall be conducted according to generally accepted government auditing standards and in accordance with the provisions of Chapter 81 of this title. Copies of all audit reports shall be available at printing cost to the public. A copy of each audit report shall be transmitted to the commissioner of community affairs within 30 days following the completion of such report.

36-94-8.

Except for the purposes expressly set forth in this chapter or where jurisdiction to provide a service is identified in the applicable service delivery strategy or otherwise authorized by law, the property within the boundaries of a township shall remain subject to all other provisions of law and the jurisdiction of the governing authority of the county in which it is located as if such area were a part of the unincorporated area of the county in which such property is located, and the governing authority of the county in which such property is located shall continue to provide government services to the area encompassed by the township to such property in the same manner and at the same level that such services would have been provided if the township had not been created, with the exception of zoning, land use planning, code enforcement, and issuing building permits to the extent that the local Act creating the township authorizes the township to provide such services.

36-94-9.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be 'The Township Council of the Township of _____ hereby ordains...' and every ordinance shall so begin.

(b) An ordinance may be introduced by any member of the township council and be read at a regular or special meeting of the township council. Ordinances shall be considered and adopted or rejected by the township council in accordance with the rules which it shall establish. Upon introduction of any ordinance, the township council shall, as soon as possible, distribute a copy to each member of the township council and shall file a reasonable number of copies in its offices and at such other public places as the township council may designate.

(c) No later than one calendar year after the first day of existence of a township, ordinances adopted by the township shall be codified or compiled in the manner required by Code Section 36-80-19 for counties and municipalities.

268 36-94-10.

269 (a) At the first meeting of the township council in each calendar year, the members of the
270 township council shall select from among their number, other than the ex officio member
271 serving pursuant to paragraph (2) of subsection (a) of Code Section 36-94-3, a chairperson
272 and vice chairperson.

273 (b) The chairperson shall preside over all meetings of the township council and shall be
274 entitled to vote in all matters coming before the township council except matters in which
275 such chairperson has disqualified himself or herself as a result of a conflict of interest or
276 other cause.

277 (c) The vice chairperson shall assume the duties of the chairperson in the chairperson's
278 absence.

279 36-94-11.

280 (a) Upon the certification of the vote approving the creation of a township pursuant to
281 subsection (b) of Code Section 34-94-2, no rezonings or changes in the land use plan for
282 the properties contained in the township shall be permitted until such time as the township
283 council adopts a comprehensive land use plan and zoning ordinance. The land use plan and
284 zoning of the county in which the township is located that is in existence at the time of the
285 creation of the township shall remain in effect until the township council adopts a
286 comprehensive land use plan and zoning ordinance for the township.

287 (b) A township shall carry liability insurance in such an amount that, in the opinion of the
288 township council, will cover all reasonably anticipated risks of the township.

289 (c) Within two years after the initial elections for the members of the township council,
290 the township shall reimburse the county for the actual cost of printing and personnel
291 services for the initial referendum and initial election of the members of the township
292 council. It shall be the duty of the county election superintendent to hold and conduct such
293 elections. It shall be his or her further duty to certify the results thereof to the Secretary of
294 State. Only for the purposes of holding and conducting the election of the initial township
295 council, the election superintendent of the county in which the township is located is vested
296 with the powers and duties of the election superintendent of the township and the township
297 council regarding elections.

298 36-94-12.

299 (a) A township shall maintain its documents and records, including those items specified
300 in subsection (b) of this Code section, in accordance with the provisions of Article 5 of
301 Chapter 18 of Title 50, the 'Georgia Records Act.'

(b) A township shall maintain an Internet website on which it shall post agendas for meetings of the township council and any committees thereof, the minutes of meetings of the township council or any committees thereof, current and proposed budgets of the township, audits of the township, and any other documents mandated by this chapter. Meeting agendas, meeting summaries, and minutes shall be made available on the website on the same schedule for reporting for those documents specified in Code Section 50-14-1 except that minutes shall be posted on the website as approved within 48 hours following the meeting at which the minutes were approved. Proposed budgets shall be made available on the website at least one week prior to the meeting at which such proposed budget will be considered. All other documents shall be made available on the website as soon as practicable. Documents posted on the website shall remain accessible by the public for not less than one year following their posting.

36-94-13.

Violations of township ordinances and other code violations as provided by law shall be heard in the magistrate court of the county in which the township is located, and the magistrate court shall have jurisdiction to handle such matters. In addition, a township council may establish by ordinance a civil code enforcement board as authorized by Chapter 74 of this title to hear such violations.

36-94-14.

(a) The local Act creating the township may authorize the imposition and levy of an ad valorem tax for the purpose of raising revenues to defray the limited costs of discharging the obligations of the township and of providing township services, for the repayment of principal and interest on general obligations, and for any other public purpose within the authority, powers, and duties of the township council. Such tax shall be limited to an amount not to exceed .5 mill on all taxable real and personal property located within the boundaries of the township that is subject to such taxation by the state and county.

(b) Such millage limitation may be increased to a higher level upon approval by a majority of the electors of the township voting in a referendum when such a referendum is authorized by majority vote of the township council, provided that such resolution calling for such referendum expressly states the need and the purpose for such increase in the millage limitation. In addition, the question submitted to the electors at such referendum shall also specify succinctly the need and purpose for such increase.

(c) Such tax shall be included by the tax commissioner or tax collector of the county in which such property is located on county tax bills for such property and shall be collected in the same manner as county taxes by such county tax commissioner or tax collector, shall

be deposited and maintained in a separate account for such purpose including any interest received thereon, and shall be promptly remitted to the township with the exception of an amount that may be withheld by the county to cover the direct actual costs to the county of collecting and remitting such tax for the township which shall not exceed the direct actual costs thereof.

(d) The General Assembly by local Act consistent with Article VII, Section II, Paragraph II of the Constitution may provide for homestead exemptions from township ad valorem taxes.

(e) All property owned by the township shall be exempt from all ad valorem taxation.

36-94-15.

(a) For the purposes of this Code section, the term 'unincorporated island' means:

(A) An unincorporated area with its aggregate external boundaries abutting the annexing township; or

(B) An unincorporated area with its aggregate external boundaries abutting any combination of the annexing township and one or more municipalities or other townships or the county boundary.

(b) The boundaries of a township shall not be altered or amended except by local Act of the General Assembly or in accordance with the procedures contained in this Code section.

(c) Except as provided in subsection (d) of this Code section, the area within the boundary of a township shall not be subject to annexation by any municipality without the approval of a majority of the members of the township council and approval by the electors of the township in a referendum; provided, however, that areas within the boundaries of a township that are contiguous to an existing municipality as defined in Code Section 36-36-20 may be annexed by such municipality pursuant to Article 2 of Chapter 36 of this title.

(d) Provided that such areas abut the limits of the township, that such deannexation will not create unincorporated islands, and that such deannexation will not result in the township falling below the minimum standards for townships contained in paragraph (2) of subsection (a) of Code Section 36-94-2, a township may deannex an area or areas of the existing limits of the township upon the written and signed applications containing a complete description of the lands to be deannexed of all of the owners, except the owners of any public street, road, highway, or right of way, of all of the land proposed to be deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless of the number of owners, and all parts shall be considered as abutting the limits of the township when any one part of the entire body abuts such limits. When such application is acted upon by the township and the land is, by ordinance, deannexed from the township,

an identification of the property so deannexed shall be filed with the Department of Community Affairs and with the governing authority of the county in which the property is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall cease to constitute a part of the lands within the corporate limits of the township as completely and fully as if the limits had been marked and defined by local Act of the General Assembly and shall be subject to annexation by any municipal corporation in accordance with the provisions of Chapter 36 of Title 36.

(e)(1) As used in this subsection, the term 'contiguous area' means any area that meets the following conditions at the time the annexation procedures are initiated:

(A) At least one-eighth of the aggregate external boundary or 50 feet of the area to be annexed, whichever is less, either abuts directly on the township boundary or would directly abut on the township boundary if it were not otherwise separated from the township boundary by lands owned by the township or some other political subdivision, by lands owned by this state, or by the definite width of:

(i) Any street or street right of way;

(ii) Any creek or river; or

(iii) Any right of way of a railroad or other public service corporation which divides the township boundary and any area proposed to be annexed;

(B) The entire parcel or parcels of real property owned by the person seeking annexation is being annexed; provided, however, that lots shall not be subdivided in an effort to evade the requirements of this subparagraph; and

(C) The private property annexed, excluding any right of way of a railroad or other public service corporation, complies with the annexing township's minimum size requirements, if any, to construct a building or structure occupiable by persons or property under the policies or regulations of the township's development, zoning, or subdivision ordinances.

(2)(A) Notwithstanding the limitations of paragraph (1) of this subsection, an area may be annexed by agreement between the township and the governing body of the county in which the territory proposed to be annexed is located.

(B) Notwithstanding the limitations of paragraph (1) of this subsection, the boundary line between a township and an abutting municipality may be adjusted by agreement between the township and the governing body of the municipality.

(3) A township may annex to its existing limits unincorporated areas within the same county and which are contiguous to the existing township limits at the time of such annexation upon the written and signed applications containing a complete description of the lands to be annexed of all of the owners, except the owners of any public street, road, highway, or right of way, of all of the land proposed to be annexed; provided,

410 however, that such annexation shall not create an unincorporated island. Lands to be
411 annexed at any one time shall be treated as one body, regardless of the number of owners,
412 and all parts shall be considered as abutting the limits of the township when any one part
413 of the entire body abuts such limits. When such application is acted upon by the
414 township and the land is, by ordinance, annexed to the township, an identification of the
415 property so annexed shall be filed with the Department of Community Affairs and with
416 the governing authority of the county in which the property is located in accordance with
417 Code Section 36-36-3. When so annexed, such lands shall constitute a part of the lands
418 within the corporate limits of the township as completely and fully as if the limits had
419 been marked and defined by local Act of the General Assembly. Except as provided in
420 subsection (c) of Code Section 36-36-20, nothing in this article shall be construed to
421 authorize annexation of the length of any public right of way except to the extent that
422 such right of way adjoins private property otherwise annexed by the township."

423 **SECTION 3.**

424 Said title is further amended by revising paragraphs (1) and (4) of Code Section 36-66-3,
425 relating to definitions regarding zoning procedures, as follows:

426 "(1) 'Local government' means any county, township, or municipality which exercises
427 zoning power within its territorial boundaries."

428 "(4) 'Zoning decision' means final legislative action by a local government which results
429 in:

430 (A) The adoption of a zoning ordinance;

431 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
432 zoning ordinance;

433 (C) The adoption of an amendment to a zoning ordinance which rezones property from
434 one zoning classification to another;

435 (D) The adoption of an amendment to a zoning ordinance by a municipal local
436 government which zones property to be annexed into the municipality; ~~or~~

437 (E) The grant of a permit relating to a special use of property; or

438 (F) With regard to townships, a decision pursuant to subparagraphs (A), (B), (C), or (E)
439 of this paragraph."

440 **SECTION 4.**

441 Said title is further amended by revising Code Section 36-66A-1, relating to definitions
442 regarding transfer of development rights, as follows:

443 "36-66A-1.

444 As used in this chapter, the term:

(1) 'Development rights' means the development that would be allowed on the sending property under any comprehensive or specific plan or local zoning ordinance of a municipality, township, or county in effect on the date the municipality, township, or county adopts an ordinance pursuant to this chapter. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation, or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this Code section.

(2) 'Person' means any natural person, corporation, partnership, trust, foundation, nonprofit agency, or other legal entity.

(3) 'Receiving area' means an area identified by an ordinance as an area authorized to receive development rights transferred from a sending area.

(4) 'Receiving property' means a lot or parcel within which development rights are increased pursuant to a transfer of development rights. Receiving property shall be appropriate and suitable for development and shall be sufficient to accommodate the transferable development rights of the sending property without substantial adverse environmental, economic, or social impact to the receiving property or to neighboring property.

(5) 'Sending area' means an area identified by an ordinance as an area from which development rights are authorized to be transferred to a receiving area.

(6) 'Sending property' means a lot or parcel with special characteristics, including farm land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands; groundwater recharge area; marsh hammocks; recreation areas or parkland, including golf course areas; or land that has unique ~~aesthetic~~ esthetic, architectural, or historic value that a municipality, township, or county desires to protect from future development.

(7) 'Transfer of development rights' means the process by which development rights from a sending property are affixed to one or more receiving properties.

(8) 'Transfer ratio' means the ratio of the number of development rights that may be allocated to and transferred from a lot or parcel in a sending area to the number of development credits that may be allocated to and used upon a lot or parcel in a receiving area."

SECTION 5.

Said title is further amended by revising Code Section 36-66A-2, relating to procedures, methods, and standards for transfer of development rights, as follows:

"36-66A-2.

(a) Pursuant to the provisions of this Code section, the governing body of any municipality, township, or county by ordinance may, in order to conserve and promote the public health, safety, and general welfare, establish procedures, methods, and standards for the transfer of development rights within its jurisdiction.

(b) Any proposed transfer of development rights shall be subject to the approval and consent of the property owners of both the sending and receiving property.

(c) Prior to any transfer of development rights, a municipality, township, or county shall adopt an ordinance providing for:

(1) The issuance and recordation of the instruments necessary to sever development rights from the sending property and to affix development rights to the receiving property. These instruments shall be executed by the affected property owners and lienholders and recorded in the county superior court clerk's office and in a separate registry maintained by the municipal, township, or county governing authority;

(2) The preservation of the character of the sending property and assurance that the prohibitions against the use and development of the sending property shall bind the landowner and every successor in interest to the landowner;

(3) The severance of transferable development rights from the sending property and the delayed transfer of development rights to a receiving property, which may include the transfer of development rights in accordance with any transfer ratio established by the local government for sending areas, receiving areas, or both;

(4) The purchase, sale, exchange, or other conveyance of transferable development rights prior to the rights being affixed to a receiving property;

(5) A system for monitoring the severance, ownership, assignment, and transfer of transferable development rights;

(6) The right of a municipality, township, or county to purchase development rights and to hold them for conservation purposes or resale;

(7) The right of a person to purchase development rights and to hold them for conservation purposes or resale;

(8) Development rights made transferable pursuant to this Code section shall be interests in real property and shall be considered as such for purposes of conveyancing and taxation. Once a deed of transferable development rights created pursuant to this Code section has been sold, conveyed, or otherwise transferred by the owner of the parcel from which the development rights were derived, the transfer of development rights shall vest in the grantee and become freely alienable. For the purposes of ad valorem real property taxation, the value of a transferable development right shall be deemed appurtenant to the sending property until the transferable development right is registered as a distinct

interest in real property with the appropriate tax assessor or the transferable development right is used at a receiving property and becomes appurtenant thereto;

(9) A map or other description of areas designated as sending and receiving areas for the transfer of development rights between properties; and

(10) Such other provisions as the municipality, township, or county deems necessary to aid in the implementation of the provisions of this chapter.

(d)(1) Prior to the enactment of an ordinance as provided in subsection (c) of this Code section, the local governing authority shall provide for a hearing on the proposed ordinance. At least 15 but not more than 45 days prior to the date of the hearing, the local governing authority shall cause to be published in a newspaper of general circulation within the territorial boundaries of the political subdivision a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

(2) Prior to any changes in an area designated in an ordinance as a sending or receiving area, the local governing authority shall provide for notice and a hearing as provided in paragraph (1) of this subsection.

(e) Proposed transfers of development rights shall become effective upon the recording of the conveyance with the appropriate deed-recording authorities and the filing of a certified copy of such recording with the local governing authority of each political subdivision in which a sending or receiving area is located in whole or in part.

(f) Municipalities, townships, and counties which are jointly affected by development are authorized to enter ~~in to~~ into intergovernmental agreements for the purpose of enacting interdependent ordinances providing for the transfer of development rights between or among such jurisdictions, provided that such agreements otherwise comply with applicable laws. Any ordinances enacted pursuant to this subsection may provide for additional notice and hearing and signage requirements applicable to properties within the sending and receiving areas in each participating political subdivision."

SECTION 6.

Said title is further amended by revising Code Section 36-67-1, relating to applicability and definitions relating to zoning proposal review procedures, as follows:

"36-67-1.

This article shall apply only to those counties which have a population of 625,000 or more according to the United States decennial census of 2000 or any future such census and to those municipalities and townships wholly or partially located within such counties which have a population of 100,000 or more according to the United States decennial census of 1980 or any future such census. As used in this article, the term 'local government' means

551 those counties, townships, and municipalities subject to this article; and the term 'governing
552 authority' means the governing authority of each such county, township, and municipality."

553 **SECTION 7.**

554 Said title is further amended by revising paragraph (4) of Code Section 36-67A-1, relating
555 to definitions relating to conflicts of interest in zoning actions, as follows:

556 "(4) 'Local government' means any county, township, or municipality of this state."

557 **SECTION 8.**

558 Said title is further amended by revising Article 1 of Chapter 70, related to planning, as
559 follows:

560 "ARTICLE 1

561 36-70-1.

562 The local governments of the State of Georgia are of vital importance to the state and its
563 citizens. The state has an essential public interest in promoting, developing, sustaining, and
564 assisting local governments. In addition, the natural resources, environment, and vital
565 areas of the state are of vital importance to the state and its citizens. The state has an
566 essential public interest in protecting and preserving the natural resources, the environment,
567 and the vital areas of the state. The purpose of this article is to provide for local
568 governments to serve these essential public interests of the state by authorizing and
569 promoting the establishment, implementation, and performance of coordinated and
570 comprehensive planning by township governments, municipal governments, and county
571 governments, and this article shall be construed liberally to achieve that end. This article
572 is enacted pursuant to the authority granted the General Assembly in the Constitution of
573 the State of Georgia, including, but not limited to, the authority provided in Article III,
574 Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

575 36-70-2.

576 As used in this chapter, the term:

577 (1) 'Comprehensive plan' means any plan by a county, township, or municipality
578 covering such county, township, or municipality proposed or prepared pursuant to the
579 minimum standards and procedures for preparation of comprehensive plans and for
580 implementation of comprehensive plans established by the department.

581 (2) 'Coordinated and comprehensive planning' means planning by counties, townships,
582 and municipalities undertaken in accordance with the minimum standards and procedures

for preparation of plans, for implementation of plans, and for participation in the coordinated and comprehensive planning process, as established by the department.

(3) 'County' means any county of this state.

(4) 'Department' means the Department of Community Affairs of the State of Georgia created pursuant to Article 1 of Chapter 8 of Title 50.

(5) 'Governing authority' or 'governing body' means the board of commissioners of a county, sole commissioner of a county, council, commissioners, town council, or other governing authority for a county, township, or municipality.

(5.1) 'Inactive municipality' means any municipality which has not for a period of three consecutive calendar years carried out any of the following activities:

(A) The levying or collecting of any taxes or fees;

(B) The provision of any of the following governmental services: water; sewage; garbage collection; police protection; fire protection; or library; or

(C) The holding of a municipal election.

(5.2) 'Local government' means any county as defined in paragraph (3) of this Code section, any township as defined in paragraph (10) of this Code section, or any municipality as defined in paragraph (7) of this Code section. The term does not include any school district of this state nor any sheriff, clerk of the superior court, judge of the probate court, or tax commissioner or the office, personnel, or services provided by such elected officials.

(5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements, ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997, or executed thereafter.

(6) 'Minimum standards and procedures' means the minimum standards and procedures for preparation of comprehensive plans, for implementation of comprehensive plans, and for participation in the coordinated and comprehensive planning process, as established by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum standards and procedures shall include any standards and procedures for such purposes prescribed by a regional commission for counties, townships, and municipalities within its region and approved in advance by the department.

(7) 'Municipality' means any municipal corporation of the state and any consolidated city-county government of the state.

(8) 'Region' means the territorial area within the boundaries of operation for any regional commission, as such boundaries shall be established from time to time by the board of the department.

(9) 'Regional commission' means a regional commission established under Article 2 of Chapter 8 of Title 50.

620 (10) 'Township' means a township created pursuant to Chapter 94 of this title.

621 36-70-3.

622 The governing bodies of municipalities, townships, and counties are authorized:

623 (1) To develop, or to cause to be developed pursuant to a contract or other arrangement
624 approved by the governing body, a comprehensive plan;

625 (2) To develop, establish, and implement land use regulations which are consistent with
626 the comprehensive plan of the municipality, township, or county, as the case may be;

627 (3) To develop, establish, and implement a plan for capital improvements which
628 conforms to minimum standards and procedures and to make any capital improvements
629 plan a part of the comprehensive plan of the municipality, township, or county, as the
630 case may be;

631 (4) To employ personnel, or to enter into contracts with a regional commission or other
632 public or private entity, to assist the municipality, township, or county in developing,
633 establishing, and implementing its comprehensive plan;

634 (5) To contract with one or more counties, townships, or municipalities, or ~~both~~ any
635 combination thereof, for assistance in developing, establishing, and implementing a
636 comprehensive plan, regardless of whether the contract is to obtain such assistance or to
637 provide such assistance; and

638 (6) To take all action necessary or desirable to further the policy of the state for
639 coordinated and comprehensive planning, without regard for whether any such action is
640 specifically mentioned in this article or is otherwise specifically granted by law.

641 36-70-4.

642 (a) Each municipality, township, and county shall automatically be a member of the
643 regional commission for the region which includes such municipality, township, or county,
644 as the case may be.

645 (b) Each municipality, township, and county shall pay, when and as they become due, the
646 annual dues required for membership in its regional commission.

647 (c) Each municipality, township, and county shall participate in compiling a Georgia data
648 base and network, coordinated by the department, to serve as a comprehensive source of
649 information available, in an accessible form, to local governments and state agencies.

650 36-70-5.

651 (a) Except as provided in subsection (b) of this Code section, nothing in this article shall
652 limit or compromise the right of the governing body of any county, township, or
653 municipality to exercise the power of zoning.

654 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
655 or after April 17, 1992, exercise any powers under this article or exercise any zoning
656 powers, until and unless the municipality is restored to active status by the enactment of
657 an appropriate new or amended charter by local Act of the General Assembly. Any
658 municipality which becomes an inactive municipality after April 17, 1992, shall not after
659 becoming inactive exercise powers under this article or exercise any zoning powers, until
660 and unless the municipality is restored to active status by the enactment of an appropriate
661 new or amended charter by local Act of the General Assembly.

662 (c) Any county which has located within its boundaries all or any part of any inactive
663 municipality shall have full authority to exercise through its governing body all planning
664 and zoning powers within the area of such inactive municipality within the county, in the
665 same manner as if such area were an unincorporated area."

666 **SECTION 9.**

667 This Act shall become effective on January 1, 2011, provided that an amendment to the
668 Constitution authorizing the General Assembly to create townships is passed in the 2009
669 session of the General Assembly and is ratified by the electors of the state at the 2010
670 November general election.

671 **SECTION 10.**

672 All laws and parts of laws in conflict with this Act are repealed.